

BS00097 CIP 2

U.S. Application No. 10/801,222 Examiner Gauthier, Art Unit 2614  
Response to July 24, 2006 Office Action

### **REMARKS**

In response to the Office Action dated July 24, 2006, the Assignee respectfully requests reconsideration based on the following remarks. The Assignee respectfully submits that the pending claims already distinguish over the cited document to *Brisebois*.

Claims 1-21 are pending in this application.

The United States Patent and Trademark Office (the "Office") rejected claims 1-21 under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent 6,310,944 to *Brisebois et al.*

The pending claims, however, are not anticipated. As the following paragraphs explain, the pending claims all recite features that are not taught or suggested by *Brisebois*. The § 102 (e) rejection, therefore, must be withdrawn.

### **Rejections under 35 U.S.C. § 102**

The Office rejects claims 1-21 under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent 6,310,944 to *Brisebois et al.* A claim, however, is anticipated only if each and every element is found in a single prior art reference. See *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q. 2d (BNA) 1051, 1053 (Fed. Cir. 1987). See also DEPARTMENT OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, § 2131 (orig. 8<sup>th</sup> Edition) (hereinafter "M.P.E.P.").

Claims 1-21 are not anticipated. Claims 1-21 already distinguish over U.S. Patent 6,310,944 to *Brisebois et al.* Independent claim 1, for example, recites a communications service in which a "subscriber" associates a data message to "an originating party and to a recipient." Independent claim 14 similarly recites "allowing a first party to compose a data message and to associate that data message with a second party and with a third party." Independent claims 1 and 14 are reproduced below, and independent claims 20 and 21 recite similar features.

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[c01] (Original) A method of providing communications services, comprising:

allowing a subscriber to create a data message;  
allowing the subscriber to associate the data message to an originating party and  
to a recipient;  
receiving a communication from the originating party; and  
communicating the data message to the recipient via an Internet Protocol  
communications network.

[c14] (Previously Presented) A method of providing communications services, comprising:

storing a user interface in memory, the user interface allowing a first party to  
compose a data message and to associate that data message with a second party and with a  
third party;  
receiving a communication from the second party; and  
communicating the data message to the third party.

The patent to Brisebois *et al.* does not anticipate the claims. All the independent claims recite three (3) different parties: a subscriber (or first party), an originating party (or second party), and a recipient (or third party). The patent to Brisebois *et al.*, however, fails to teach or suggest such features. Examiner Gauthier is again correct — *Brisebois*, like the previously cited patent to Bedingfield *et al.*, describes a “subscriber,” a “calling party,” and a “called party.” Once again, however, *Brisebois* uses the term “subscriber” interchangeably with “calling party” or with “called party,” depending on the example. The patent to Brisebois *et al.*, then, fails to disclose all the features recited by the independent claims.

*Brisebois* provides many examples. Suppose “the calling party on Global System for Mobility (“GSM”) handset 33 places a call to the called party on ADSI phone 30.” U.S. Patent 6,310,944 to Brisebois *et al.* (Oct. 30, 2001) at column 6, lines 58-61 (emphasis added). “The GSM network 34 identifies the GSM handset 33 with the name and number of the subscriber, along with GPS coordinates or the cell ID.” *Id.* at column 6, lines 61-63 (emphasis added). “Server 32 identifies the called party as an ADSI call context subscriber.” *Id.* at column 6,

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lines 65-66 (emphasis added). In this example, then, the "called party" and the "subscriber" are the same person.

*Brisebois* provides another example. *Brisebois* explains how the "called party" may again be a "subscriber" to context information:

For automatic creation of called party context information, suppose the called party is on GSM handset 33 and is a subscriber to the call context feature. The calling party places a call to GSM handset 33 on ADSI phone 30 through PSTN 31. Server 32 requests the name of the called party, along with GPS coordinate or the cell ID, from GSM network 34. GSM network 34 provides this information to server 32 which, in turn, sends the information to ADSI phone 30 as a text-based message. Using this information, the calling party indicates to server 32 whether he wishes to complete the call by, for example, selecting an appropriate soft-key. If the calling party wishes to complete the call, server 32 would place a call request to GSM network 34, and the call would complete as usual.

*Id.* at column 7, lines 7-20 (emphasis added).

*Brisebois* provides still another example. *Brisebois* explains how the "calling party" may again be a "subscriber" to context information:

In the case of standard options creation for calling party context information, suppose that the calling party, on ADSI phone 30, has subscribed to the call context feature from the local service provider. Using the ADSI protocol, server 32 loads a call context service script into the subscriber's ADSI phone 30 via PSTN 31. When the calling party goes off-hook, the call context options appear as soft-keys. Suppose the calling party initiates a call to a called party on GSM handset 33. The calling party could select a soft-key indicating that he desired a voice connection with the called party. Server 32 sends this short message along with the call request information over PSTN 31 to GSM network 34. The called party receives the standard call request information from GSM network 34, along with the context message.

U.S. Patent 6,310,944 to *Brisebois et al.* (Oct. 30, 2001) at column 7, lines 21-34 (emphasis added).

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*Brisebois* provides yet another example. *Brisebois* explains how the "called party" may again be a "subscriber" to context information:

Similarly, for standard options creation for called party identification, suppose the called party, on GSM handset 33, is a subscriber to the call context feature. At an earlier time, the called party, using menu options or star commands, could select various options that would be stored on server 32. For example, the called party could select an option indicating that he can receive only voice communications. When the calling party, on ADSI phone 30, places a call to GSM handset 33, server 32 recognizes the called party as a subscriber to the call context feature and provides the pre-selected context information to ADSI phone 30 via PSTN 31. Based on this information, the calling party indicates to server 32 whether to complete the call by using, for example, soft-keys on ADSI phone 30.

*Id.* at column 7, lines 35-48 (emphasis added).

The Assignee must point out another distinguishing feature. Independent claim 1 recites a communications service in which a "subscriber" associates a data message to "*an originating party and to a recipient.*" Independent claim 14 similarly recites "*allowing a first party to compose a data message and to associate that data message with a second party and with a third party.*" Examiner Gauthier cites column 6, lines 11-22 of *Brisebois*, but Examiner Gauthier is, very respectfully, mistaken. These passages of *Brisebois* describe custom disposition options "based on the identify of the calling party." U.S. Patent 6,310,944 to *Brisebois et al.* (Oct. 30, 2001) at column 6, lines 14-16. Yet *Brisebois* goes on to explain that once "the network has gathered context information from one or more of the above-described sources, **it transmits the context information to the calling party.**" *Id.* at column 6, lines 31-33 (emphasis added). The patent to *Brisebois et al.* merely describes a communication associated with two parties (e.g., the calling party and the called party). *Brisebois*, then, fails to disclose a communications service in which a "subscriber" associates a data message to "*an originating party and to a recipient*" (as recited in independent claim 1). *Brisebois* also fails to disclose "*allowing a first party to compose a data message and to associate that data message with a second party and with a third party.*" (as independent claim 14 recites).

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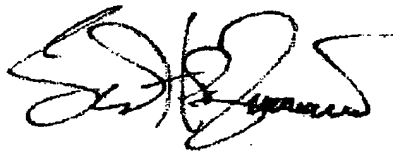
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For at least the reasons given above, independent claims 1, 14, 20, and 21 are allowable over *Brisebois*. Since claims 2-13 and 15-19 depend from claims 1 and 14, respectively, and recite further features, Assignee respectfully submits that claims 2-13 and 15-19 are also allowable over *Brisebois*. Thus, claims 1-21, then, are not anticipated by *Brisebois*. No where does *Brisebois* make any description of three (3) different parties (e.g., subscriber or first party, an originating party or second party, and a recipient or third party), as the independent claims recite. Because the patent to *Brisebois et al.* is completely silent to the claimed three-party communications service, *Brisebois* cannot anticipated the pending claims. The § 102 rejection must, therefore, be withdrawn.

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If any issues remain outstanding, the Office is requested to contact the undersigned at (919) 469-2629 or [scott@wzpatents.com](mailto:scott@wzpatents.com).

Respectfully submitted,



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